

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AMY TAYLOR,

Plaintiff,

V.

HARVEY HARBAUGH, et al.,

## Defendants.

CASE NO. C19-1761 MJP

## ORDER RE MOTIONS IN LIMINE

THIS MATTER comes before the Court on the Parties' Stipulated Motions in Limine No. 21), Plaintiff's Motions in Limine (Dkt. No. 24) and Defendant's Motions in Limine No. 20.) Having reviewed the Motions, the Responses (Dkt. Nos. 27, 28), and all related motions, the Court rules as follows:

## I. Stipulated Motions in Limine

The Court GRANTS the Parties' Stipulated Motions in Limine and ORDERS the following excluded at trial:

- 1      1. Evidence and testimony pertaining to the Washington Human Rights Commission
- 2              investigation. (Dkt. No. 21 at 2.)
- 3      2. Evidence and testimony pertaining to the conciliation process at the Washington Human
- 4              Rights Commission, along with position statements and/or offers to compromise made
- 5              during the Commission process. (Id.)
- 6      3. Evidence, testimony, comments, or questions assigning value to the credibility of witness
- 7              testimony. (Id.)
- 8      4. Questions, argument or testimony that invites jurors to place themselves in the position of
- 9              one of the parties. (Id. at 3.)
- 10     5. Evidence, testimony, or argument that any claimed economic damages are “owed” or will
- 11              be paid to a third party. (Id.)
- 12     6. Testimony or argument about Defendants’ liability insurer. (Id.)
- 13     7. Evidence, testimony, or comments pertaining to the interests of the community or
- 14              describing jurors as protectors or guardians of the community. (Id.)
- 15     8. Statements by counsel about verdicts in other cases. (Id.)
- 16     9. References to the existence of motions in limine and any pretrial orders in the presence of
- 17              the jury. (Id.)

18              In addition, the Parties will provide their “will call” witness list to opposing counsel prior  
19              to the end of the day before the witness is called. (Id. at 2.)

20              **II. Plaintiff’s Motions in Limine**

21              **Motions in Limine Nos. 1-5:** Plaintiff’s Motions in Limine one through five seek to  
22              exclude documents obtained through a public records request to the Washington Human Rights  
23              Commission. (See Dkt. No. 24 at 3-5.) Defendants have agreed not to introduce these

1 documents. (See Dkt. No. 37.) The Court therefore GRANTS Plaintiffs' Motions in Limine one  
 2 through five.

3 **Motion in Limine No. 6:** Plaintiff's Motion in Limine No. 6 seeks to exclude a letter  
 4 dated November 28, 2017 sent from Defendant Patricia Harbaugh to Garry Taylor. (Dkt. No. 24  
 5 at 5-6; Id., Exhibit 1, Declaration of Scott G. Thomas, ¶ 6, Ex. 3.) Defendants argue this is a  
 6 "near-contemporaneous" writing and could be used to demonstrate when the parties became  
 7 aware of certain facts and therefore Defendants request that the Court reserve ruling. (Dkt. No.  
 8 27 at 3.) The Court RESERVES ruling on Plaintiff's Motion in Limine No. 6.

9 **Motion in Limine No. 7:** Plaintiff seeks to treat Defendant Patricia Harbaugh and  
 10 Defendants' former employee Thomas Hastings as adverse when she calls them during her case  
 11 in chief. (Dkt. No. 24 at 6.) Plaintiff further asks the Court to preclude Defendants from  
 12 examining these witnesses using leading questions. (Id.) Defendants agree to Plaintiff's Motion  
 13 in Limine No. 7, with a number of additional limitations as to how the Court should treat  
 14 testifying witnesses. (Dkt. No. 27 at 4-5.) Because the Court will run trial in accordance with  
 15 the Federal Rules of Evidence and its usual Courtroom procedures, the Motion and Defendants'  
 16 additional conditions are unnecessary. The Motion is therefore DENIED.

17 **III. Defendants' Motions in Limine**

18 **Motion in Limine No. 1:** Defendants seek to exclude evidence, testimony, comment, or  
 19 argument regarding undisclosed past and/or future damages (Dkt. No. 20 at 2.) Plaintiff "does  
 20 not anticipate claiming damages outside of the categories she identified in discovery." (Dkt. No.  
 21 28 at 1.) The Court therefore GRANTS Defendants' Motion in Limine No. 1.

22 **Motion in Limine No. 2:** Defendants seek to exclude lay witness testimony regarding  
 23 the cause of Plaintiff's condition, or medical diagnoses. (Dkt. No. 20 at 2-3.) Plaintiff argues  
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1 that granting this motion would “prohibit usual and common communications” such as the lay  
2 use of the term “depression.” (Dkt. No. 28 at 2.) Finding that the Parties have provided  
3 insufficient information on the nature of the contested testimony, the Court RESERVES ruling  
4 on Defendants’ Motion in Limine No. 2.

5 **Motion in Limine No. 3:** Exclude evidence, testimony, or argument regarding other  
6 residents of Carriage Estates who were in violation of the Carriage Estates’ age restrictions.  
7 (Dkt. No. 20 at 2.) Defendants claim that while frequently referring to such residents, Plaintiff  
8 disclosed no witnesses with firsthand knowledge of the living arrangements of other residents  
9 during discovery. (*Id.*) Plaintiff seeks to reference Debra Jackson, another resident disclosed by  
10 Defendants during discovery, who was under 55 but over the age of 40. (Dkt. No. 28 at 2-3.)  
11 The Court GRANTS the Motion, with the limitation that Plaintiff may refer to Ms. Jackson, who  
12 was disclosed by Defendants during discovery.

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14 The clerk is ordered to provide copies of this order to all counsel.

15 Dated April 13, 2021.

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Marsha J. Pechman  
United States Senior District Judge